

Introduced by Senator Cogdill

February 21, 2007

An act to amend Section 23612.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 417, as introduced, Cogdill. Corporation tax: credit: sales and use taxes.

The Corporation Tax Law authorizes various credits against the taxes imposed by that law, including a credit in an amount equal to the sales or use tax paid or incurred by a taxpayer during the taxable year in connection with the taxpayer's purchase of qualified property used in an enterprise zone, as defined. That law limits the amount of the total cost of qualified property that may be taken into account by the taxpayer, for the purpose of determining that credit, to \$20,000,000, as provided.

This bill would modify that limitation provision to allow a taxpayer, for the purpose of determining the credit amount, to take into account the remaining amount of the total cost of qualified property, as defined, in the following taxable year, and succeeding taxable years, if applicable, to the extent that the amount of the total cost taken into account does not exceed \$20,000,000 per each year.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23612.2 of the Revenue and Taxation
- 2 Code is amended to read:

1 23612.2. (a) There shall be allowed as a credit against the
2 “tax” (as defined by Section 23036) for the taxable year an amount
3 equal to the sales or use tax paid or incurred during the taxable
4 year by the taxpayer in connection with the taxpayer’s purchase
5 of qualified property.

6 (b) For purposes of this section:

7 (1) “Taxpayer” means a corporation engaged in a trade or
8 business within an enterprise zone.

9 (2) “Qualified property” means:

10 (A) Any of the following:

11 (i) Machinery and machinery parts used for fabricating,
12 processing, assembling, and manufacturing.

13 (ii) Machinery and machinery parts used for the production of
14 renewable energy resources.

15 (iii) Machinery and machinery parts used for either of the
16 following:

17 (I) Air pollution control mechanisms.

18 (II) Water pollution control mechanisms.

19 (iv) Data-processing and communications equipment, including,
20 but not limited to, computers, computer-automated drafting
21 systems, copy machines, telephone systems, and faxes.

22 (v) Motion picture manufacturing equipment central to
23 production and postproduction, including, but not limited to,
24 cameras, audio recorders, and digital image and sound processing
25 equipment.

26 (B) The total cost of qualified property purchased and placed
27 in service in ~~any~~ a taxable year that may be taken into account by
28 any taxpayer for purposes of claiming this credit shall not exceed
29 twenty million dollars (\$20,000,000) *in that taxable year. In the*
30 *following taxable year, and succeeding years, if applicable, the*
31 *taxpayer, for purposes of claiming this credit, may take into*
32 *account the remaining amount of the total cost of that qualified*
33 *property, not to exceed twenty million dollars (\$20,000,000) per*
34 *each year.*

35 (C) The qualified property is used by the taxpayer exclusively
36 in an enterprise zone.

37 (D) The qualified property is purchased and placed in service
38 before the date the enterprise zone designation expires, is no longer
39 binding, or becomes inoperative.

1 (3) “Enterprise zone” means the area designated as an enterprise
2 zone pursuant to Chapter 12.8 (commencing with Section 7070)
3 of Division 7 of Title 1 of the Government Code.

4 (c) If the taxpayer has purchased property upon which a use tax
5 has been paid or incurred, the credit provided by this section shall
6 be allowed only if qualified property of a comparable quality and
7 price is not timely available for purchase in this state.

8 (d) In the case where the credit otherwise allowed under this
9 section exceeds the “tax” for the taxable year, that portion of the
10 credit which exceeds the “tax” may be carried over and added to
11 the credit, if any, in the following year, and succeeding years if
12 necessary, until the credit is exhausted. The credit shall be applied
13 first to the earliest taxable years possible.

14 (e) Any taxpayer who elects to be subject to this section shall
15 not be entitled to increase the basis of the qualified property as
16 otherwise required by Section 164(a) of the Internal Revenue Code
17 with respect to sales or use tax paid or incurred in connection with
18 the taxpayer’s purchase of qualified property.

19 (f) (1) The amount of credit otherwise allowed under this
20 section and Section 23622.7, including any credit carryover from
21 prior years, that may reduce the “tax” for the taxable year shall
22 not exceed the amount of tax which would be imposed on the
23 taxpayer’s business income attributable to the enterprise zone
24 determined as if that attributable income represented all of the
25 income of the taxpayer subject to tax under this part.

26 (2) Attributable income shall be that portion of the taxpayer’s
27 California source business income that is apportioned to the
28 enterprise zone. For that purpose, the taxpayer’s business income
29 attributable to sources in this state first shall be determined in
30 accordance with Chapter 17 (commencing with Section 25101).
31 That business income shall be further apportioned to the enterprise
32 zone in accordance with Article 2 (commencing with Section
33 25120) of Chapter 17, modified for purposes of this section in
34 accordance with paragraph (3).

35 (3) Business income shall be apportioned to the enterprise zone
36 by multiplying the total California business income of the taxpayer
37 by a fraction, the numerator of which is the property factor plus
38 the payroll factor, and the denominator of which is two. For
39 purposes of this paragraph:

1 (A) The property factor is a fraction, the numerator of which is
2 the average value of the taxpayer's real and tangible personal
3 property owned or rented and used in the enterprise zone during
4 the taxable year, and the denominator of which is the average value
5 of all the taxpayer's real and tangible personal property owned or
6 rented and used in this state during the taxable year.

7 (B) The payroll factor is a fraction, the numerator of which is
8 the total amount paid by the taxpayer in the enterprise zone during
9 the taxable year for compensation, and the denominator of which
10 is the total compensation paid by the taxpayer in this state during
11 the taxable year.

12 (4) The portion of any credit remaining, if any, after application
13 of this subdivision, shall be carried over to succeeding taxable
14 years, as if it were an amount exceeding the "tax" for the taxable
15 year, as provided in subdivision (d).

16 (g) The amendments made to this section by the act adding this
17 subdivision shall apply to taxable years beginning on or after
18 January 1, 1998.

19 SEC. 2. This act provides for a tax levy within the meaning of
20 Article IV of the Constitution and shall go into immediate effect.